

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Timothy S. DeBruine et al.
Serial No. 09/814,426
Filed: 03/21/2001

Examiner: Kamal B. Divecha
Art Unit: 2151

For: **METHOD AND SYSTEM FOR OPTIMIZING PRIVATE NETWORK FILE
TRANSFERS IN A PUBLIC PEER-TO-PEER NETWORK**

Mail Stop AF
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

STATEMENT FOR DISCOUNTED NOTICE OF APPEAL

A Notice of Appeal is being filed concurrently with this statement. The Applicants previously filed a Notice of Appeal on February 28, 2007 and an Appeal Brief on April 24, 2007. The Applicants paid the \$500.00 fee associated with the Notice of Appeal and the Appeal Brief when each was filed.

In response to the Appeal Brief filed on April 24, 2007, a Notice of Non-compliant Appeal Brief was mailed on July 2, 2007 to which the Applicants filed a Revised Appeal Brief on July 30, 2007. In response to the Revised Appeal Brief, prosecution was reopened through the mailing of a non-final Office Action on November 1, 2007. The Applicants filed a response to the non-final Office Action on January 29, 2008. A Final Office Action was issued on April 4, 2008, to which the Applicants filed a response on June 4, 2008. The Patent Office issued an Advisory Action on June 16, 2008. As such, the Revised Appeal Brief filed on July 30, 2007 was not reviewed by the Board of Patent Appeals and Interferences and no decision was rendered in response to the Appeal Brief. The Applicants have continued prosecution and concurrently file a new Notice of Appeal.

The Applicants should not have to pay the full amount of \$510.00 for this Notice of Appeal because the Notice of Appeal filed on February 28, 2007 and the Appeal Brief filed on April 24, 2007 had been paid for and no decision had been rendered. See M.P.E.P § 1207.04. The Applicants note that the fee for a Notice of Appeal increased by \$10.00. As such, only the \$10.00 fee is due for the current Notice of Appeal. The Director is hereby authorized to charge the \$10.00 Notice of Appeal fee to Deposit Account 50-1732, and to consider this a petition

therefor. If any additional fees are required in association with this Notice of Appeal, the Director is hereby authorized to charge them to Deposit Account 50-1732, and consider this a petition therefor.

Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By:



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Date: July 3, 2008

Attorney Docket: 1104-041